

STATEMENT OF PURPOSE

RS21744

During the Clinton administration, the "Health Insurance Portability and Accountability Act of 1996", otherwise known as the Kennedy-Kassebaum bill, included new provisions regarding the transfer of assets in the Medicaid program. This bill made it a federal crime if a person knowingly and willfully disposed of assets and the result was a period of ineligibility for Medicaid, even if the transfer was fully legal under Medicaid law. This became known as the "granny goes to jail" provision. It ran into a firestorm of opposition, and the provision was removed, but replaced with a similar provision for anyone advising the Medicaid recipient of their legal rights, known as "granny's attorney goes to jail". This ran into a similar firestorm, and then Attorney General Janet Reno announced that it would not be enforced by the Clinton administration and the New York State Bar obtained a restraining order in their federal jurisdiction. Medicaid law has clear terms on allowable transfers and provides appropriate penalties for certain types of transfers.

However, Idaho adopted corresponding language in section 56-227 of the Idaho Code and those provisions have never been removed. This bill, whose language was negotiated with the Department of Health & Welfare, removes that language, while keeping all language needed to prosecute actual fraud.

FISCAL NOTE

This bill will have no fiscal impact. The Department of Health & Welfare has not been enforcing the provisions removed by this bill.

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